

**Senate Bill No. 525**

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Passed the Senate June 1, 2005

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*Secretary of the Senate*

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Passed the Assembly August 30, 2005

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2005, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Sections 24600, 25025, 26004, and 27024 of, and to add Section 25024.5 to, the Education Code, relating to state teachers' retirement.

## LEGISLATIVE COUNSEL'S DIGEST

SB 525, Torlakson. State teachers' retirement: benefits.

(1) The State Teachers' Retirement Law establishes procedures for the refund of certain contributions and credits, and for the payment of a retirement allowance, and requires that these refunds begin not later than April 1 of the calendar year following the later of the calendar year that the member becomes 70 1/2 years of age or the calendar year that the member terminates employment, as specified.

This bill would instead require a refund begin not later than April 1 of the calendar year in which the member attains the age at which the Internal Revenue Code requires a distribution of benefits for the calendar year the member becomes 70 1/2 years of age, or the calendar year that the member terminates employment.

(2) The State Teachers' Retirement Law establishes the Defined Benefit Supplement Program to provide additional benefits to members of the State Teachers' Retirement System. A member is entitled to a termination benefit under the Defined Benefit Supplement Program upon ending all employment to perform creditable service for a reason other than retirement, disability, or death. The termination benefit is payable after one calendar year has elapsed from the time the member terminated employment, except if the member performs creditable service within one year of the prior termination, then the benefit is not payable.

This bill would reduce the time period within which the termination benefit is payable, and the time period within which it may not be paid if creditable service is performed, from one year to 6 months. The bill would also specify that a member who is reemployed and again performs creditable service may not receive a subsequent termination benefit, as described above, if less than 5 years have passed since the last termination benefit

was distributed. The bill would provide that the application for the termination benefit is canceled if the member performs creditable service within 6 months following the date of termination of employment. The bill would provide exceptions to the provisions described above for members who have reached the age at which the Internal Revenue Code requires a distribution of benefits.

(3) Existing law creates the State Teachers' Retirement Cash Balance Benefit Program to provide a retirement program for people providing less than 50% creditable service. The program provides for a termination benefit, which is payable after one year has elapsed from the time the participant terminated employment, except if the participant performs creditable service within one year of the prior termination, then the benefit is not payable. Existing law requires this benefit, and others provided under the program, to be distributed within certain periods of time.

This bill would reduce the time period within which the termination benefit is payable, and the time period within which it may not be paid if creditable service is performed, from one year to 6 months. The bill would provide exceptions to the provisions described above for members who have reached the age at which the Internal Revenue Code requires a distribution of benefits.

*The people of the State of California do enact as follows:*

SECTION 1. Section 24600 of the Education Code is amended to read:

24600. (a) A retirement allowance under this part begins to accrue on the effective date of the member's retirement and ceases on the earlier of the day of the member's death or the day on which the retirement allowance is terminated for a reason other than the member's death.

(b) A retirement allowance payable to an option beneficiary under this part begins to accrue on the day following the day of the retired member's death and ceases on the day of the option beneficiary's death.

(c) A disability allowance under this part begins to accrue on the effective date of the member's disability allowance and

ceases on the earlier of the day of the member's death or the day on which the disability allowance is terminated for a reason other than the member's death.

(d) A family allowance under this part begins to accrue on the day following the day of the member's death and ceases on the day of the event that terminates eligibility for the allowance.

(e) A survivor benefit allowance payable to a surviving spouse under this part pursuant to Chapter 23 (commencing with Section 23850) begins to accrue on the day the member would have attained 60 years of age or on the day following the day of the member's death, as elected by the surviving spouse, and ceases on the day of the surviving spouse's death.

(f) A child's portion of an allowance under this part begins to accrue on the effective date of that allowance and ceases on the earlier of either the termination of the child's eligibility or the termination of the allowance.

(g) Supplemental payments issued under this part pursuant to Sections 24411, 24412, and 24415 to retired members, disabled members, and beneficiaries shall begin to accrue pursuant to Sections 24411, 24412, and 24415 and shall cease to accrue as of the termination dates specified in subdivisions (a) to (f), inclusive, of this section.

(h) Notwithstanding any other provision of this part or other law, distributions payable under the plan with respect to the Defined Benefit Program and the Defined Benefit Supplement Program shall be made in accordance with applicable provisions of the Internal Revenue Code of 1986 and related regulations. The required beginning date of benefit payments that represent the entire interest of the member in the plan with respect to the Defined Benefit Program and the Defined Benefit Supplement Program shall be either:

(1) In the case of a refund of contributions, as described in Chapter 18 (commencing with Section 23100) of this part and distribution of an amount equal to the balance of credits in a member's Defined Benefit Supplement account, as described in Chapter 38 (commencing with Section 25000) of this part, not later than April 1 of the calendar year following the later of (A) the calendar year in which the member attains the age at which the Internal Revenue Code of 1986 requires a distribution of

benefits or (B) the calendar year in which the member terminates employment within the meaning of subdivision (i).

(2) In the case of a retirement allowance, as defined in Section 22166, not later than April 1 of the calendar year following the later of (A) the calendar year in which the member attains the age at which the Internal Revenue Code of 1986 requires a distribution of benefits or (B) the calendar year in which the member terminates employment within the meaning of subdivision (i), to continue over the life of the member or the lives of the member and the member's option beneficiary, or over the life expectancy of the member or the life expectancy of the member and the member's option beneficiary.

(i) For purposes of subdivision (h), the phrase "terminates employment" means the later of:

(1) The date the member ceases to perform creditable service subject to coverage under this plan.

(2) The date the member ceases employment in a position subject to coverage under another public retirement system in this state if the compensation earnable while a member of the other system may be considered in the determination of final compensation pursuant to Section 22134, 22135, or 22136.

SEC. 2. Section 25024.5 is added to the Education Code, to read:

25024.5. A member who is reemployed and again performs creditable service subject to coverage under the plan may not receive a termination benefit under this part if less than five years have elapsed following the date the most recent termination benefit was distributed to the member. This section does not apply to a member who has reached the age at which the Internal Revenue Code of 1986 requires a distribution of benefits.

SEC. 3. Section 25025 of the Education Code is amended to read:

25025. (a) A termination benefit under the Defined Benefit Supplement Program shall be payable after six calendar months have elapsed following the date the member terminated employment as specified in Section 25024.

(b) Except as provided in subdivision (c), the application for the termination benefit shall be automatically canceled if the member performs creditable service within six calendar months following the date of termination of employment.

(c) Subdivision (b) does not apply if the member has reached that age at which the Internal Revenue Code of 1986 requires a distribution of benefits. A member who has reached this age shall receive a distribution commencing on the earlier of the date that the member has met the conditions of subdivision (a) or the conditions of subdivision (h) of Section 24600.

SEC. 4. Section 26004 of the Education Code is amended to read:

26004. Notwithstanding any other provision of law:

(a) The benefits payable to any participant or beneficiary under this part shall be subject to the limitations imposed by Section 415 of Title 26 of the United States Code.

(b) The amount of compensation that is taken into account in computing benefits under this part for a plan year shall not exceed the annual compensation limit applicable to that plan year in accordance with Section 401(a)(17) of Title 26 of the United States Code as that section read on the effective date of this section and as that section may be amended after that date. The determination of compensation for a 12-month period shall be subject to the annual compensation limit in effect for the calendar year in which the 12-month period begins. In a determination of average compensation over more than one 12-month period, the amount of compensation taken into account for each 12-month period shall be subject to the respective annual compensation limit applicable to that period.

(c) Distributions from the plan under this part shall be made in accordance with Section 401(a)(9) of Title 26 of the United States Code, including the incidental death benefit requirements of Section 401(a)(9)(G) and the regulations thereunder. The required beginning date of benefit payments that represent the entire interest of the participant shall be as follows:

(1) In the case of a lump-sum distribution of a retirement benefit, disability benefit, or termination benefit, the lump-sum payment shall be made not later than April 1 of the calendar year following the later of (A) the calendar year in which the participant attains the age at which the Internal Revenue Code of 1986 requires a distribution of benefits or (B) the calendar year in which the participant terminates all employment subject to coverage by the plan.

(2) In the case of a retirement benefit or disability benefit that is to be paid in the form of an annuity, payment of the annuity shall begin not later than April 1 of the calendar year following the later of (A) the calendar year in which the participant attains the age of at which the Internal Revenue Code of 1986 requires a distribution of benefits or (B) the calendar year in which the participant terminates employment in all positions subject to coverage by the plan, with the annuity to continue over the life of the participant or the life of the participant and the participant's option beneficiary, or over a period not to exceed the life expectancy of the participant or the life expectancy of the participant and the participant's option beneficiary.

(3) In the case of a death benefit, distributions shall commence no later than the date provided in Section 27001.

(d) If a person becomes entitled to a distribution from the plan under this part that constitutes an eligible rollover distribution within the meaning of Section 401(a)(31) of Title 26 of the United States Code, the person may elect under terms and conditions established by the board to have the distribution or a portion thereof paid directly to a plan that constitutes an eligible retirement plan within the meaning of Section 401(a)(31), as specified by that person. Upon the exercise of the election by a person with respect to a distribution or a portion thereof, the distribution from the plan of the amount so designated, once distributable under the terms of the plan, shall be made in the form of a direct rollover to the eligible retirement plan so specified. This subdivision does not apply to the surviving domestic partner of a member, consistent with Section 402 of the Internal Revenue Code.

(e) The amount of any benefit from the plan under this part that is determined on the basis of actuarial assumptions shall be based on actuarial assumptions adopted by the board pursuant to Section 26213 as a plan amendment with respect to the Cash Balance Benefit Program and those assumptions shall preclude employer discretion and comply with Section 401(a)(25) of Title 26 of the United States Code.

SEC. 5. Section 27204 of the Education Code is amended to read:

27204. (a) The termination benefit under this part shall not be payable before six calendar months have elapsed following the date of termination of employment.

(b) Except as provided in subdivision (c), the application for the termination benefit shall be automatically canceled if the participant performs creditable service within six calendar months following the date of termination of employment.

(c) Subdivision (b) does not apply if the participant has reached that age at which the Internal Revenue Code of 1986 requires a distribution of benefits. A participant who has reached this age shall receive a distribution commencing on the earlier of the date that the participant has met the conditions of subdivision (a) or the conditions of subdivision (c) of Section 26004.















Approved \_\_\_\_\_, 2005

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*Governor*